



**PROCEEDINGS OF NOVEMBER 26, 2013**

**THE CLERK:** All rise. The United States District Court for the District of Maryland is now in session, The Honorable William D. Quarles, Jr. presiding.

**THE COURT:** Good afternoon. Please be seated. Please swear the interpreter.

**THE CLERK:** Yes, Your Honor. Good afternoon, ladies.

**INTERPRETER KIRCHGESSNER:** Good afternoon.  
(Oath administered.)

**THE CLERK:** Thank you. Please state your name for the record.

**INTERPRETER KIRCHGESSNER:** Victoria Kirchgessner.

**INTERPRETER GOLDSTEIN:** Marta Goldstein, Federal Court-certified Spanish interpreter. Good afternoon, Your Honor.

**THE CLERK:** Thank you.

**THE COURT:** Good afternoon, Ms. Kirchgessner, Ms. Goldstein.

**INTERPRETER KIRCHGESSNER:** Good afternoon, Your Honor.

**THE COURT:** Please call the case.

**MR. CUNNINGHAM:** Good afternoon, Judge Quarles. I call the case of *United States versus German de Jesus Ventura*, Criminal Docket Number WDQ-10-0770. Michael Cunningham and

1 Rachel Yasser for the United States, and with us at counsel  
2 table is Homeland Security Investigations Special  
3 Agent Ed Kelly.

4 **THE COURT:** Counsel, Special Agent Kelly, good  
5 afternoon.

6 **MR. CUNNINGHAM:** Good afternoon, sir.

7 **S/A KELLY:** Good afternoon, Your Honor.

8 **MR. RUTER:** And, Your Honor, good afternoon.  
9 Gerald Ruter on behalf of Mr. Ventura. We are here for  
10 sentencing.

11 **THE COURT:** Mr. Ruter, Mr. Ventura, good afternoon.

12 **MR. RUTER:** Good afternoon, Your Honor.

13 **THE DEFENDANT:** Good afternoon.

14 **THE COURT:** Thank you. Please be seated.  
15 Mr. Cunningham, have you read the presentence  
16 report?

17 **MR. CUNNINGHAM:** Yes, Your Honor, I have.

18 **THE COURT:** Any deletions, additions, or  
19 corrections?

20 **MR. CUNNINGHAM:** Your Honor, as we noted in the  
21 letter that we filed, our sentencing memoranda dated  
22 September 23rd, 2013, the Government believes that two  
23 adjustments that --

24 **THE COURT:** I will go into those.

25 **MR. CUNNINGHAM:** Oh, okay. None other than that,

1 Your Honor, no.

2 THE COURT: Okay. Thank you.

3 Mr. Ruter, have you read the presentence report?

4 MR. RUTER: Yes, I have, Your Honor.

5 THE COURT: Have you had that report translated into  
6 Spanish?

7 MR. RUTER: Yes, sir, I have.

8 THE COURT: Have you reviewed that report with  
9 Mr. Ventura?

10 MR. RUTER: Yes, sir, I did.

11 THE COURT: Was Mr. Ventura also provided a copy of  
12 the report?

13 MR. RUTER: He was.

14 THE COURT: I understand from your sentencing  
15 memorandum that you have some arguments to make with respect  
16 to the adjustments. Beyond those, do you have any  
17 corrections, deletions, or supplements to the presentence  
18 report?

19 MR. RUTER: No, sir.

20 THE COURT: Okay. Let's turn our attention, then,  
21 to the adjustments to the guidelines.

22 MR. RUTER: Yes, Your Honor.

23 THE COURT: And I guess we'll start with the two the  
24 Government is most interested in.

25 MR. CUNNINGHAM: Your Honor, as indicated in our

1 sentencing memorandum, the Government believes that a  
2 vulnerable victim adjustment of two levels is appropriate in  
3 this case. Specifically, with respect to Rebeca Dueñas  
4 Franco, the woman who was essentially the victim in the sex  
5 trafficking by force, fraud, and coercion count.

6 **THE COURT:** This is the woman whose testimony was  
7 who lived with Mr. Ventura and whom he rescued from  
8 prostitution, entered into a relationship with, then steered  
9 back into prostitution?

10 **MR. CUNNINGHAM:** Yes, Your Honor. That's the one.

11 As you'll recall, she testified to actually acts of  
12 physical violence that he perpetrated against her, the  
13 discharge of a weapon in her presence, but, to go back to the  
14 issue of vulnerability, Your Honor, this was a woman who  
15 basically, as you point out, he rescued her from -- well, let  
16 me put "rescue" in quotations. I think, as I suspect Your  
17 Honor intended it, it wasn't necessarily that he saved her  
18 from that, but that he took her from one situation where she  
19 was prostituting for a man in Washington, D.C., and put her  
20 into sex trafficking in Maryland.

21 And, as she testified on direct and, in addition,  
22 added in cross-examination, she was a young woman who came  
23 from a foreign country with virtually no support mechanism  
24 here. Basically, the ability to make some money as a  
25 prostitute was essentially all she had. She had the language

1 barrier. She had an education barrier. She had a child,  
2 which was essentially a subject of some leverage that  
3 Mr. Ventura employed, and essentially he knew well all of  
4 those aspects of her character and her situation when he  
5 compelled her and forced her to engage in prostitution  
6 activities.

7 The other --

8 **THE COURT:** Let's give --

9 **MR. CUNNINGHAM:** Yes, sir.

10 **THE COURT:** -- Mr. Ruter an opportunity to respond  
11 to the adjustment relating to vulnerable victim.

12 **MR. RUTER:** Your Honor, our position really is quite  
13 to the contrary. I think the testimony of Ms. Franco made it  
14 very clear that the relationship between she and Mr. Ventura  
15 was a relationship of a familial type. She lived with him.  
16 He, in fact, I will say, took care of her for a period of time  
17 before she says he forced her into prostitution.

18 It was clearly consensual and voluntary on her  
19 part --

20 **THE COURT:** Looking at the evidence from the  
21 Government's perspective, which I think we're probably  
22 constrained to do at this point, how can you say there was no  
23 coercion involved?

24 **MR. RUTER:** Your Honor, I don't think that  
25 coercion --

1           **THE COURT:** I'm --

2           **MR. RUTER:** -- changes her into a vulnerable victim.

3           **THE COURT:** I'm getting there.

4           **MR. RUTER:** I'm sorry?

5           **THE COURT:** I'm getting there. I want to get these  
6 parts.

7           **MR. RUTER:** Okay.

8           **THE COURT:** Do you wish to argue coercion, or do you  
9 just want to talk about whether she's vulnerable or not?

10           **MR. RUTER:** That's all, because the testimony is  
11 clear, Your Honor, from her standpoint, it's -- I know  
12 Mr. Ventura testified to the contrary. The jury obviously  
13 chose to believe Ms. Franco, that she was coerced or otherwise  
14 forced. So that is the state of the record. I admit that.

15           **THE COURT:** Okay. So a young, poorly-educated,  
16 single mother relying on the Defendant for her support and  
17 sustenance in a foreign country and being subjected, according  
18 to the evidence, to physical violence, that's not a vulnerable  
19 victim?

20           **MR. RUTER:** Your Honor, I believe, to be a  
21 vulnerable victim, she would have needed to have started out  
22 in that condition, and that's not the way the relationship  
23 started out. I don't know why the relationship changed, and,  
24 quite frankly, I don't think the record is clear either, but I  
25 don't see how you can change what I do not believe was a

1 vulnerable victim when they first met and dated and spent  
2 considerable time with each other when the illegal activity  
3 commenced. I don't see that the transition can be made from  
4 being invulnerable to now she is in vulnerable, and that's the  
5 status of my argument.

6 **THE COURT:** That's accepting, I guess, the premise  
7 that she was not vulnerable when she entered into the  
8 relationship, and perhaps she was not, at the initial part of  
9 the relationship, abused, but she still had the  
10 characteristics; again, the language difficulty, the child,  
11 stranger in a strange land, limited economic opportunities.  
12 That was all there. The only thing that wasn't there at the  
13 beginning of the relationship was the abuse -- the physical  
14 abuse.

15 **MR. RUTER:** That part, Your Honor, is true. I admit  
16 she had --

17 **THE COURT:** And you just told me that the physical  
18 abuse is not the key to the consideration.

19 **MR. RUTER:** It's not. What I'm agreeing with Your  
20 Honor is I admit she had limited skills to speak English. She  
21 had limited skills for employment. That part is true when the  
22 relationship started.

23 **THE COURT:** And she was, therefore, isolated, wasn't  
24 she?

25 **MR. RUTER:** Your Honor, I think her testimony was



1 she was isolated when she started the relationship in terms of  
2 prostitution, that her testimony was that she was kept inside  
3 of a house, and she really couldn't go by herself. That's  
4 what I understood her testimony to be.

5 **THE COURT:** She was confined --

6 **MR. RUTER:** It was not her testimony when the  
7 relationship started.

8 **THE COURT:** No, but she was confined?

9 **MR. RUTER:** That was her -- yes, sir. That was her  
10 testimony.

11 **THE COURT:** Okay. So your premise is that, if she  
12 was not -- well, if she wasn't mistreated at the beginning of  
13 the relationship, any change in the treatment does not  
14 transform her into a vulnerable victim?

15 **MR. RUTER:** Yes. If she was not vulnerable to  
16 begin, then the fact that she began prostituting -- and, Your  
17 Honor, I'm not even too sure the testimony is clear that the  
18 threats started at the very beginning of the prostitution.  
19 I'm not even too sure that's clear.

20 There was clear testimony that the threats did occur  
21 during the prostitution when she refused to do what she  
22 alleges Mr. Ventura had asked her to do, but it's not clear to  
23 me the testimony was that the relationship stopped and, rather  
24 than some kind of loving, caring relationship, it was  
25 immediately changed into a, "You do this, or else," and the

1 "else" was acts of violence. I don't think that's the state  
2 of the record either. That being the case, I don't think that  
3 the threshold is met that she was vulnerable to begin with.

4 I can't imagine, Judge Quarles, that, because a  
5 person may be a bit uneducated or may be in a foreign land,  
6 that that by itself should reach the threshold of making that  
7 person vulnerable.

8 **THE COURT:** But I don't think the Government's  
9 argued that that by itself was what did it. I think the  
10 Government is saying that it was a list of things, which  
11 included her youth, the single parenthood, her lack of  
12 language skills, the apparent lack of marketable vocational  
13 skills, that it was, for want of a better word, a  
14 constellation of things that made her vulnerable.

15 **MR. RUTER:** Your Honor, I understand the argument.  
16 I stick by mine. She was not vulnerable to begin with, and  
17 the fact that there may have been some threats later on in the  
18 relationship does not make her become a vulnerable person at  
19 that stage, especially given the relationship she had already  
20 had before.

21 She clearly knew, Your Honor, what was going to be  
22 required for her if, in fact, her testimony is to be believed,  
23 as far as prostituting herself. I don't see how the  
24 Government can just go from what I think was a somewhat normal  
25 relationship for some period of time, and then turn her into a

1 vulnerable victim because she then began prostituting herself,  
2 and thereafter perhaps some kind of coercion or force was  
3 used.

4 **THE COURT:** Thank you, Mr. Ruter.

5 Mr. Cunningham, you get the last words.

6 **MR. CUNNINGHAM:** Thank you, Your Honor.

7 You alluded to her status, and then you used the  
8 term that I think is appropriate. There were a constellation  
9 of matters of background, character, you know, things that --  
10 her education and lack of ability to work, the fact that she  
11 was an illegal alien in the United States, didn't have the  
12 support structure. But, fundamentally, when the Defendant  
13 initiated this association with -- and I guess you could say  
14 it developed into a relationship of sorts -- she was  
15 prostituting for a man, and she -- according to her testimony,  
16 she wanted to get out of that. She was desperate to get out  
17 of that, and he did offer her that apparent lifeline, and he  
18 got her out of it, at least temporarily, and created that  
19 appearance of the rescue, if you will, only to take advantage  
20 of the fact that then all those vulnerabilities redounded to  
21 his ability to essentially take advantage of and compel her to  
22 undertake, you know, prostituting on his behalf.

23 **THE COURT:** Thank you.

24 I think the combination of factors that we  
25 discussed -- the cultural, the educational factors, the single

1 parenthood, plus, as the Government correctly reminds me, that  
2 it wasn't, Mr. Ruter, a relationship of someone who walked in  
3 off the street, engaged in a romantic relationship, and that  
4 deteriorated. The fact of the matter was she was, at the time  
5 they met, already in an exploited position. That is, she was  
6 working as a prostitute here. And that person was, viewing  
7 the evidence in the light most favorable to the Government,  
8 lured into a relationship that certainly and apparently fairly  
9 quickly began to feature physical abuse as well as mental  
10 abuse. So I think the victim-related adjustment under  
11 Guideline § 3A1.1(b)(1) is appropriate, and I will adjust two  
12 levels upward.

13 **MR. RUTER:** And, Your Honor, if I could just add --  
14 I think you know this part was coming -- in light of *Alleyne*  
15 *versus United States*, as you might have seen from my last  
16 submission, I would further argue that this Court should not  
17 make such a finding which will, in fact, increase his advisory  
18 guideline range, which will then cause this Court to most  
19 likely give him the sentence being effected by that guideline  
20 range. Rather, I believe this item should be submitted to a  
21 jury, should be charged in the charging document, submitted to  
22 a jury for their consideration, and then found beyond a  
23 reasonable doubt.

24 **THE COURT:** I understand your argument --

25 **MR. RUTER:** Thank you, sir.

1           **THE COURT:** -- and it is preserved.

2           Next adjustment.

3           **MR. CUNNINGHAM:** Your Honor, the other matter for  
4           adjustment the Government believes is appropriate here -- and  
5           it's identified in Paragraph 4(h) of the Government's  
6           sentencing memorandum -- is that there should be a two-level  
7           upward adjustment because of obstruction of justice. The  
8           Government acknowledges that indeed a defendant simply who  
9           testifies and may be found guilty does not, *per se*, warrant  
10          the obstruction of justice enhancement, but the Court must do  
11          an analysis to determine if, in fact, the testimony could  
12          constitute perjury, and we've identified the legal test here.

13                 The Defendant, as indicated -- and we don't have the  
14          transcript of his testimony, but, as I think Your Honor will  
15          remember, virtually denied everything, including knowing any  
16          of the witnesses who identified him as an employer, but for I  
17          think he did acknowledge -- well, he did acknowledge knowing  
18          Ms. Rebeca Dueñas Franco. My recollection is he denied  
19          knowing his co-defendant, Mr. Fuertes.

20                 But, significantly -- and of course Mr. Fuertes  
21          obviously didn't testify against him, but people like Carlos  
22          Ascencio -- it was Carlos Campos who did work for him and  
23          testified, and even some of the people whose credibility was  
24          perhaps more attacked, the -- Rapalo and Franco --  
25          Francisco -- excuse me -- Ramirez. They all testified that

1 they knew him, that they had been working for him at some  
2 point in time, and his testimony was a wholesale denial of  
3 knowing anybody, being involved in anything, knowing anything  
4 as -- "I don't know anything," as I have some recollection of  
5 hearing that from him. "I don't know anybody. I don't know  
6 anything." But it was a wholesale denial of being involved in  
7 any way whatsoever with the prostitution business. He did  
8 acknowledge his engaging prostitutes as a customer with  
9 respect to Ms. Rebeca Dueñas Franco, but that was as far as he  
10 went in the context of that admission.

11 **THE COURT:** Is there a difference -- and I don't  
12 want to pull you out of your argument, but is there a  
13 difference between a defendant who takes the stand and  
14 essentially relies on a general denial of guilt as opposed to  
15 one, say, who testifies in great detail to a false alibi or to  
16 any of the other contested factual issues at trial?

17 **MR. CUNNINGHAM:** Judge, I do -- I think that the  
18 Court would find that there would be a distinction there,  
19 specifically because a general denial conceivably could  
20 include things that may be intent-related. I'm --

21 **THE COURT:** It's, in essence, no more than a not  
22 guilty plea, isn't it?

23 **MR. CUNNINGHAM:** It is, Your Honor, and, so long as  
24 it went that far, I don't think that the Court would be  
25 inclined to think that it would constitute the kind of

1 testimony that the Court believes is necessary to warrant this  
2 enhancement. The Court recognizes, obviously, that it's not  
3 trying to chill a defendant's right to testify. It's just  
4 saying, if you do choose to testify, you're constrained to  
5 testify in the same way any other witness is; that is,  
6 truthfully.

7 **THE COURT:** There is a materiality requirement.  
8 Does the materiality requirement mean something more than --  
9 it's a tick on the list of elements. Does the materiality  
10 requirement mean that essentially the story has to be facially  
11 believable? Not to succeed, but that it must have had some  
12 reasonable chance of success, which probably was not the case  
13 here? Isn't that sort of the essence of materiality?

14 **MR. CUNNINGHAM:** I believe so, Your Honor, and what  
15 I'm looking at is the citation or the quote that we included  
16 that may come close to that particular point, where it says,  
17 if a defendant testified falsely about a non-material matter  
18 or lack of requisite *mens rea* because false testimony was the  
19 result of confusion, mistake, or faulty memory, it wouldn't  
20 get over that threshold, but --

21 **THE COURT:** No. I'm asking, in addition to the  
22 list, that the facially unbelievable testimony, is that  
23 material?

24 **MR. CUNNINGHAM:** Well, yes. The Government submits  
25 it is, Your Honor. For one thing, to the extent that the

1 individuals who testified that they knew him, that they had  
2 worked for him, and then his testimony is that I don't even  
3 know them, one, it goes directly counter to the testimony of  
4 them as to their association, how they were associated with  
5 him, and that, in fact, they worked in an illegal enterprise  
6 for him. Inherent in the, "I don't know them," is, "They  
7 didn't work for me. Everything they've said as far as knowing  
8 me and having been employed in my brothels is false," and I  
9 think it's material as to the question of: Was he, in fact,  
10 engaged in this illegal enterprise? Did he have people, you  
11 know, working as agents for him in that context?

12 **THE COURT:** The question is merely: Does  
13 materiality require believability?

14 **MR. CUNNINGHAM:** I don't know the answer to that,  
15 but I don't believe so, Your Honor.

16 **THE COURT:** Okay. Thank you.

17 Mr. Ruter, the obstruction adjustment?

18 **MR. RUTER:** Your Honor, I was looking more at the  
19 willful intent to deceive element of obstruction in that --

20 **THE COURT:** Well, that would require me to believe  
21 that he was motivated by innocent motivation.

22 **MR. RUTER:** It would. It would.

23 **THE COURT:** That's a fairly high hurdle, Mr. Ruter.

24 **MR. RUTER:** Judge, you were here for that testimony  
25 obviously, and I'm trying to figure out how to put it



1     politely, Your Honor, but you've put it as politely as it can  
2     be and couched it in terms of materiality. The testimony was  
3     so out of line with anything else that had been heard or seen  
4     in the courtroom over the course of a couple weeks that it's  
5     difficult how one could at any glance determine that what was  
6     being said was material to any issue.

7             A lot of what was said was not even responsive to  
8     questions. It was just an ongoing rambling discussion, if you  
9     will, by Mr. Ventura as to what he was doing. I think he did  
10    admit, Your Honor, that he was aware that prostitution was  
11    going on, that he called the police about it. His position  
12    has always been that he's not a leader of a prostitution ring;  
13    somebody else is, as he had testified to.

14            That may not, by the way, be -- the fact that  
15    somebody else may be a leader of a prostitution ring may, in  
16    fact, be true, but his assertions were always just in very  
17    broad brushes, and it's difficult for me to see how anyone  
18    could believe that anything that he testified to was material  
19    to any issue before the Court, and that he was trying to  
20    deceive anybody. He was just talking -- over my strenuous  
21    objection that he would talk at all, he was just talking for  
22    the sake of talking, and that was --

23            **THE COURT:** I admit that is one way of looking at  
24    the broad testimony. Another way of looking at it is, though,  
25    that essentially it contested every material element of the

1 offense, a general denial of it, and, to be fair to the  
2 Government, it was a bit more detailed than a general denial.

3 **MR. RUTER:** Yes. When asked maybe the same question  
4 thirty times and it came out differently every time, one might  
5 find a grain of materiality in that, but I still stand by the  
6 argument, Judge, that, when you examine that testimony, it's  
7 difficult to see how whatever he said was material to any  
8 specific thing, and I do repeat, because I think it's so  
9 appropriate in his case, that I don't think he willfully  
10 intended to deceive anybody. He simply wanted to have his day  
11 in court and to say whatever he wanted to say, even whether it  
12 was in response to any question being thrown at him.

13 **THE COURT:** Okay. Last word?

14 **MR. CUNNINGHAM:** Your Honor, to go back to sort of  
15 the basics, where the rule defines "material," it states that  
16 it's a fact, a statement, that, if believed, and I gather  
17 that's the whole struggle.

18 **THE COURT:** I suppose --

19 **MR. CUNNINGHAM:** When you say "believable" --

20 **THE COURT:** Is it believable, yes.

21 **MR. CUNNINGHAM:** Well, I suppose, if somebody  
22 testified to something so preposterous that, you know, it's  
23 impossible to believe, but, to the extent that the testimony  
24 was -- and I recall Your Honor's perhaps point as to the  
25 length of the cross-examination, but the point was it was a

1 repeated response to or attempt to direct questions relevant  
2 to the whole investigation. It included things like  
3 outlandish allegations against the Government investigators,  
4 the law enforcement officers that interviewed him, and  
5 arguably --

6 **THE COURT:** Well, those things, I would find are  
7 probably not material.

8 **MR. CUNNINGHAM:** Except that, Your Honor, to the  
9 extent -- well, and, as you pointed out, we did not intend  
10 to -- we did not introduce evidence of his statement that was  
11 made to the investigators, but the testimony of the  
12 investigators, both Agent Kelly and Detective Hartlove,  
13 included a lot of the things that they learned and developed  
14 through the course of their investigation, and, to the extent  
15 that his testimony bore on -- it was a character -- an  
16 attempted character assassination in some respects of  
17 particularly Special Agent Kelly, and, if the conclusion had  
18 been reached that there was some personal animus by  
19 Agent Kelly against Mr. Ventura, it's certainly conceivable  
20 that one or more jurors may have concluded they should reject  
21 the testimony of the agent and -- regardless of what they did  
22 with the other testimony of the Defendant, they should reject  
23 it.

24 So I do think that you can look at those things and  
25 find they were material, but, going back to the more specific

1 denials of criminal conduct and engaging in the prostitution  
2 business, that's essentially what his testimony was -- a  
3 wholesale rejection of any criminal conduct, at least any  
4 charged criminal conduct, and the Government contends that  
5 those allegations were, in fact, material.

6 There is another aspect of this obstruction that we  
7 did not brief, and I am not -- the rule, or the guidelines  
8 don't really address this very well, but I think the Court  
9 would well recall that Mr. Ventura's conduct in court, not  
10 just during his testimony, but at other times during the  
11 proceedings, really had a very obstructive quality to it, and  
12 I would submit that it, in its entirety, warrants the  
13 enhancement.

14 **THE COURT:** Thank you.

15 Although the issue of materiality obviously raises  
16 some concerns for me, without wishing to establish a right for  
17 the Defendant to take the stand and defend with an outrageous  
18 bit of testimony, I think materiality is clearly related to  
19 the subject matter more so than to whether the testimony  
20 itself is believable. I think -- and, again, I have some  
21 discomfort with it, but I think the Defendant gives wildly  
22 implausible testimony about a material matter, such as his  
23 participation, such as whether he was in the business, such as  
24 others' participation in it. I think that, coupled with its  
25 falsity, which is clear, and with its evident willful intent

1 to deceive, which is obviously the reason why he took the  
2 stand and testified -- it wasn't just an exercise in  
3 storytelling skills.

4 So, although, as I said, because of the sort of  
5 facially incredible testimony in total, I have some  
6 hesitance -- well, hesitance is too strong a word. I feel  
7 that the obstruction adjustment has sufficient basis, and,  
8 accordingly, I will give the Government the two-level upward  
9 adjustment for obstruction, notwithstanding the concerns about  
10 the facially incredible testimony.

11 That leaves us at 42 offense level, Criminal History  
12 Category I guidelines for Counts 1 through 6, with the  
13 exception of those for which there are lower statutory  
14 maximums, at 360 to life.

15 I will hear from the Government on sentencing.

16 **MR. CUNNINGHAM:** Your Honor, obviously Mr. Fuertes'  
17 sentencing proceeding has already transpired, and you heard  
18 from the Government as to the nature of this crime already,  
19 and I don't see that any new victims who perhaps had not  
20 previously heard the Government's position with this regard  
21 are present. We stated our position in the sentencing  
22 memoranda, so I will try to be brief here, just reiterating  
23 that collectively these kind of crimes are really some of the  
24 worst forms of exploitive behavior that a criminal can engage  
25 in -- using other people for the financial gain and basically

1 making them work in such degrading conditions and, as you've  
2 heard us repeat several times, the kind of squalor that these  
3 brothels represented, the transient nature, the lack of  
4 essentially, you know, kind of the decent human contact that  
5 people want and need.

6 I know I've heard you speak several times to your  
7 understanding of why aliens want to come to the United States  
8 and will go to desperate measures to come here illegally,  
9 risking a lot of things, and indeed suffering as Ms. Dueñas  
10 Franco did, apparently a rape from a coyote while she was  
11 being transported up here. They come with the expectation of  
12 things being better in the United States, and sometimes  
13 they're sent under the conditions that they engage in the  
14 conduct, and I apologize because, off the top of my head, I've  
15 forgotten the name of the witness who, you'll recall, she --  
16 she came down from New Jersey. The father of her children,  
17 who was with her children in Mexico, made her come to the  
18 United States and made her engage in prostitution --

19 **MS. YASSER:** Margarita Santiago.

20 **MR. CUNNINGHAM:** Yeah. Margarita Santiago. Thank  
21 you.

22 And then she got into the pool, if you will, and  
23 was -- that exploitation continued and was furthered by the  
24 Defendant and other individuals working in the same industry.  
25 It's a serious crime to begin with, and then, when you overlay

1 the force, fraud, and coercion component, the law recognizes  
2 just how much more aggravated it is.

3 In the instant case, Mr. Ventura had weapons. We  
4 heard the testimony from Carlos Campos that he showed those  
5 weapons. We heard the testimony from -- or a weapon. Excuse  
6 me. Not weapons. That he had Fuertes display the gun, and  
7 that was in the context of the threat to Victor.

8 Ms. Dueñas Franco testified that he had a gun, that  
9 he brandished it, and that he, in fact, discharged it in her  
10 presence as essentially one of these tools in compelling her  
11 compliance with his dictates and his demand that she engage in  
12 sex with people she or a person that she otherwise didn't want  
13 to engage in sex with, all of which is to come around to the  
14 fact that the Government obviously contends that this is a  
15 very serious crime.

16 We actually join Mr. Ruter in contending that we did  
17 not present or ask the jury to find that the brandishing was  
18 found and, hence, per the *Alleyne* decision, the Court should  
19 only impose a 60-month consecutive sentence to whatever  
20 sentence you otherwise impose for the other crimes, which  
21 brings us to: What is the Government's recommendation? And,  
22 as we indicated --

23 **THE COURT:** Before you get there, there are some  
24 points raised in Mr. Ruter's letter that I wanted to discuss  
25 with you --

1           **MR. CUNNINGHAM:** Yes, sir.

2           **THE COURT:** -- in terms of things that should be  
3 mitigating in the sentencing.

4           And, Mr. Ruter, your memorandum was filed under  
5 seal. I granted your --

6           **MR. RUTER:** Yes, sir.

7           **THE COURT:** -- motion for that. Is there any --  
8 come up to the bench, counsel.

9           **MR. RUTER:** Thank you, sir.

10          **THE COURT:** Come up to the bench.

11          (Whereupon, a conference was held at the bench.)

12          **THE COURT:** Yes, Mr. Cunningham?

13          **MR. CUNNINGHAM:** Thank you, Your Honor.

14                 I wanted to address as a follow-up to the  
15 conversation at the bench specifically on that matter of  
16 character as it will factor in -- and I appreciate that this  
17 is not necessarily sequentially in the necessary scheme, but  
18 what I was looking for was a letter that Mr. Ruter had  
19 submitted along with its sentencing memorandum on behalf of  
20 Mr. Ventura. It was written by a gentleman who, at the time,  
21 was part of a program in the District of Columbia that was  
22 assisting individuals in that case. Of course, it was a  
23 pretrial detainee, not an inmate. But the author was an  
24 individual who essentially had a program through the  
25 University of the District of Columbia, and I apologize



1 because I'm not immediately putting my hand on the letter, but  
2 what I recall -- and I tried to get in touch with the writer  
3 actually to follow up on it, but he's no longer with the  
4 program, and, as you just heard, I wasn't able to be forwarded  
5 to him to direct my question to him.

6 But he spoke to the fact that -- and his letter was  
7 written in May or June of 2012, so a good ten months before  
8 the trial took place, but there was a suggestion in his letter  
9 that Mr. Ventura had self-awareness as to how he found himself  
10 in the predicament that he was in, and, candidly, Your Honor,  
11 with respect to the writer -- and I appreciate that he's got a  
12 laudable objective with the program that he has, but I view  
13 with a great deal of scepticism that kind of statement in  
14 light of Mr. Ventura's trial testimony, how he behaved in  
15 court, and essentially how he has attempted and what I would  
16 consider to be manipulative kind of behavior.

17 Factoring into that character context that you're  
18 addressing with regard to the § 3553(a) factors, I believe  
19 that much more of what we have seen of Mr. Ventura with regard  
20 to relations with authority is intending or attempting to  
21 effectively manipulate the system, and, if he can see  
22 something to his advantage, he may pursue it as far as it may  
23 lead him until a determination is made that it is either not  
24 redounding to his benefit or the circumstances are different  
25 than what he had anticipated.

1           **THE COURT:** What was his manipulation of the system  
2           and how much is sort of the good faith flailings around of  
3           someone who doesn't understand the American justice system and  
4           trying desperately to defend himself?

5           **MR. CUNNINGHAM:** Well, Judge, I suppose I think  
6           that, while Mr. Ventura is not educated in the American  
7           justice system, you're certainly -- you've been the recipient  
8           of numerous pleadings from him, some of which, I suspect, are  
9           the product of communication with other -- the jailhouse  
10          lawyers we all know are out there and giving individuals a lot  
11          of misinformation along with information, but, for example,  
12          just the repeated essentially communications regarding counsel  
13          and coming in, the allegations with regard to the quality of  
14          representation, the allegations regarding the trial  
15          preparation, which Your Honor is -- as you made the  
16          observation in your memorandum in support of the order that  
17          you issued yesterday, he was represented excellently by a very  
18          well-prepared attorney, and the representations to the  
19          contrary are just -- you know, there is just no merit to them.

20          Given the motions that were filed, the actual  
21          aggressive litigation in his support, there is simply no  
22          support for the contentions that he makes, and yet it  
23          effectively disrupts the process, if you will, which is why  
24          the Government would characterize it as essentially an attempt  
25          to manipulate as opposed to simply the floundering of somebody

1 who doesn't have a clue as to what he's doing in the  
2 communications with the Court.

3 I mean, to the extent that -- and I go back, if I  
4 may, to the allegations against Agent Kelly and other law  
5 enforcement officers. Now there is this contention that he  
6 was injured when he was taken into custody. Well, it wasn't  
7 something we necessarily dealt with in the trial because, as  
8 you observed, we didn't introduce the statement that he made  
9 when he was arrested on November 15th of 2010.

10 But, to go even farther back to the motions hearing,  
11 when that was the subject of testimony, it was pretty clear  
12 that there was no -- he -- when he was taken into custody, it  
13 was out -- I believe it was on interstate or -- excuse me --  
14 on Route 50, in the vicinity of Annapolis. There was no  
15 evidence whatsoever of any physical force being used,  
16 certainly no excessive physical force, none when he was in the  
17 presence of Agent Kelly and Detective Hartlove, and yet now  
18 that's a constant refrain in his communication, that, oh, he  
19 was injured when he was taken into custody.

20 I'm not sure what the ultimate intent may be of  
21 that, but I would characterize it as a manipulative kind of  
22 conduct as opposed to something that is a credible allegation  
23 that would merit any consideration in this context, either as  
24 to guilt or sentencing.

25 And, with regard to the matter at which we were

1 speaking at the bench, you know, I would submit that that  
2 really was an effort intended not so much to provide some kind  
3 of -- well, it was mostly with regard to how might this  
4 benefit the Defendant and his ability to change the conditions  
5 of his detention at the time.

6 Your Honor, did you want me to speak to any of the  
7 other matters that Mr. Ruter raised in the sentencing  
8 memorandum?

9 **THE COURT:** Only those that you wish to address.

10 **MR. CUNNINGHAM:** Okay. I don't actually take issue  
11 with the Court recommending a place of confinement. I  
12 acknowledge that certainly most inmates can benefit through  
13 vocational training, through access to mental health. I know,  
14 as Mr. Ruter alluded to at the bench, that he intends to  
15 present to you extracts from Mr. Ventura's medical records,  
16 which Mr. Ventura, in his *pro se* submissions of late, has been  
17 essentially harping on the lack of attention.

18 I would simply observe that I too, as a result of  
19 actually issuing a trial subpoena for them to present them  
20 today, received -- well, it's 229 pages plus an additional,  
21 oh, I think around 30 pages, so over 240 pages worth of  
22 medical records that essentially document the attention that's  
23 been provided to Mr. Ventura since he's been in pretrial  
24 detention in the custody of the Marshals.

25 Now, a lot of this is duplicative. Frankly, it's

1 hard to figure out day by day what is the sole entry? So I  
2 accept that there is a lot of redundancy, but one of the  
3 things that seems pretty obvious in this volume of  
4 paperwork -- I confess that I -- in the time I had, I did not  
5 get through all of it, but that Mr. Ventura had access to and  
6 availed himself of the medical attention that is afforded to  
7 individuals who are in pretrial detention, both in the  
8 Chesapeake Detention Facility, as well as the facility in  
9 Washington, D.C., and he made his complaints known.

10 It appears from my ability to discern these entries,  
11 some of which are in doctor speak and others which are more  
12 susceptible to a layman's interpretation, that there were  
13 assessments of his well-being, and, on one hand, while he  
14 complains -- just to take as an example of sort of the  
15 complaints as it factors into what I was earlier suggesting as  
16 maybe manipulative kind of things, where he complains of  
17 the -- of, you know, back pain and artifacts from the abuse  
18 that he suffered when he was arrested in November of 2010, I  
19 note that, in the same time frame when he was, I guess,  
20 complaining of stomach distress and some other problems in  
21 July of 2013, he came in from an injured -- an injured wrist  
22 that he got playing basketball, so -- which I am not  
23 gainsaying that he may have injured his wrist playing  
24 basketball, but presumably his physical situation was not such  
25 as to preclude him from participating in the limited

1 recreational activities afforded to pretrial detainees. Most  
2 of the entries in here suggest that, you know, other than the  
3 complaints, he presents in a fairly healthy way.

4 I know Mr. Ruter is going to focus on the mental  
5 health things. I acknowledge that there are certainly entries  
6 in here suggesting that there are issues of depression and  
7 situational anxiety, those kinds of things. I would imagine  
8 it's appropriate for somebody to be depressed who is sitting  
9 in pretrial detention and facing the possibility of a lengthy  
10 jail sentence. Dealing with that kind of anxiety and stress  
11 and the depression is something which I believe the Bureau of  
12 Prisons has, not only in a facility like Butner, but in  
13 virtually all of its facilities, opportunities for inmates to  
14 come to terms with the situation, to understand better how  
15 they got there and how they can, you know, avoid in the future  
16 essentially resurrecting those situations that got them there  
17 in the first place.

18 So I don't take exception to the appropriateness of  
19 that and a recommendation from the bench for those kinds of  
20 treatment for him, but, to come back to what is indeed the  
21 Government's recommendation for a very serious sentence -- and  
22 it's -- as I pointed out, it's at the lower end -- not the  
23 lowest end, but at the lower end of the guideline range, which  
24 is 360 months to life, so essentially we're recommending a  
25 366-month sentence in there, plus the 60 months consecutive

1 because of the 924(c) count.

2 I don't dispute that that's a very serious sentence,  
3 Your Honor. Mr. Ventura's crimes were very serious. They  
4 were very dangerous, very harmful to people, and the  
5 Government has a great deal of concern that there is no  
6 suggestion in this context -- and, respecting obviously that  
7 he's denying his complicity, and I would anticipate there  
8 would be an appeal, but there is not one scintilla of  
9 essentially remorse, if you will. Even had he acknowledged  
10 that, okay, sure, I was -- you know, I knew Ms. Rebeca Dueñas  
11 Franco, I found her in this situation and removed her from it,  
12 but there is no awareness. There is no self-awareness  
13 evidenced by Mr. Ventura's conduct that would lead the  
14 Government to conclude that anything less than a very serious  
15 sentence will be sufficient but not more than necessary to  
16 achieve the ends of justice.

17 **THE COURT:** Thank you.

18 **MR. CUNNINGHAM:** Thank you.

19 **THE COURT:** Mr. Ruter?

20 **MR. RUTER:** Your Honor, first of all, could I impose  
21 upon the Clerk to call the Magistrate Judge --

22 **THE COURT:** Yes.

23 **MR. RUTER:** -- before whom I should be there at  
24 2 o'clock? It would be appreciated.

25 Your Honor, while I'm speaking, could I ask the

1 Court to mark this as an exhibit, please, as Defense  
2 Exhibit 1. It can be placed under seal, Your Honor, please.

3 **MR. CUNNINGHAM:** No objection whatsoever.

4 **THE COURT:** Thank you. Defense 1 is admitted, will  
5 be admitted under seal.

6 **MR. RUTER:** And, Your Honor, I want the Court to  
7 know that -- I hope you know my habits are not to be giving --  
8 supplying documents to His Honor as you're determining what to  
9 do in a significant case. Mr. Cunningham and I had  
10 discussions the last several weeks about trying to resolve  
11 this medical issue situation. I have seen Mr. Ventura weeks  
12 and weeks ago, and I was right in front of him when he signed  
13 documents allowing the Super Max to turn over his medical  
14 records to me.

15 I then spent, I think, four or five phone calls and  
16 two visits to the facility, Your Honor, where the facility  
17 denied that they ever received the document. They never  
18 received the request. And then, last Friday, I think it was,  
19 this very thick volume of documents comes to me, where the  
20 very paper that Mr. Ventura signed weeks before is the first  
21 page in the documents.

22 So I was disappointed that somebody at the facility  
23 would continue to deny that they received it, and then get,  
24 three weeks later, they appear, but they appeared a bit late.  
25 For that, I apologize.



1           **THE COURT:** Are there parts of the record that you  
2 want to direct me to?

3           **MR. RUTER:** Your Honor, I pulled out only those  
4 particular pages that I thought the Court might wish to see,  
5 but I will summarize those, Your Honor, as I go through my  
6 remarks. And Your Honor can feel very --

7           (Whereupon, Ms. Goldstein leaves the courtroom.)

8           **THE COURT:** You're not asking me to take a recess to  
9 review these?

10          **MR. RUTER:** Your Honor, I am not.

11          **THE COURT:** Okay.

12          **MR. RUTER:** I am not. And, if you feel the need,  
13 Your Honor, you'll tell me so, but I am not asking the Court  
14 to do that. I will make comments as I proceed.

15               Your Honor, I want the Court to -- and I know you  
16 will -- look at the fact that, prior to this conviction and  
17 the activities which brought Mr. Ventura here, he has no  
18 criminal record. He has one criminal history point for a  
19 driving under the influence sometime ago, and he's been in  
20 this country since 1997, Your Honor.

21               Now, I find it somewhat remarkable that a person who  
22 has been here now from 1997 until 2007, when these activities  
23 were alleged to have commenced -- of course we -- he was  
24 arrested November 2010, and he's been incarcerated since, but  
25 it appears as if he's a person who was attempting to make his

1 way as best he could as a non-English-speaking person with  
2 limited skills and so on, and trying to make a life for  
3 himself and his family during at least that ten-year period,  
4 quite frankly, until the day that he was arrested.

5 The fact that he was only arrested a couple of  
6 times, only one of which led to the conviction for the DUI,  
7 speaks to the fact that, by and large, it appears as if  
8 Mr. Ventura was living a law-abiding life for a very lengthy  
9 portion of his stay in this country.

10 He was engaged in legitimate employment, Your Honor,  
11 I suggest, throughout the course of that ten-year period. He  
12 was also engaged in legitimate employment during the course of  
13 this conspiracy. I think the Court heard testimony from the  
14 special agent that they saw him from time to time apparently  
15 doing some kind of work -- he had a work van. He had work  
16 things in it, and he, in fact, was, on occasion, doing work  
17 unrelated to the prostitution situation in which he was, we  
18 now know, embroiled. We know that from his income tax  
19 returns, Your Honor, that were introduced during his  
20 testimony, which demonstrate that he, in fact, had income from  
21 his home improvement company for the last several years before  
22 his arrest.

23 Your Honor, you have before you -- and I wanted to  
24 address the question of his medical records, because I'm going  
25 to ask the Court to consider recommending FCI Butner, which is

1 a medical facility. I believe that the records you have  
2 before you speak to the fact that he may very well benefit  
3 from being medically evaluated and treated by those in the  
4 mental health community, and FCI Butner is such a facility,  
5 and I'd ask you to consider making that recommendation.

6 Those records show, Your Honor, that, according to  
7 doctors who have examined him -- and he's been looked at quite  
8 a bit. Mr. Cunningham's point is well taken. Mr. Ventura  
9 alleges no help, and perhaps it may be more accurate to say  
10 that what help he's received, it simply hasn't benefited him  
11 as much as he would have liked, which is not uncommon for any  
12 of us who may suffer from different kinds of maladies.

13 But those records show, Your Honor, that he has  
14 suffered from depression, from sleeping problems. On  
15 Page 38 -- you'll notice that the page numbers are numbered in  
16 the upper right-hand corner, Your Honor. If you look to  
17 Page 38, you'll notice a host of drugs that he's been on --  
18 on, again, for the last few years. He had the same drugs  
19 while he was in Washington, D.C., I'm told.

20 Those drugs are, Your Honor, used for anxiety, used  
21 for allergies, acid reflux, hypertension. Some are  
22 antipsychotic, some are antibiotics, and some are to treat  
23 manic-depressive disorders, as I had reviewed those medicines  
24 before I just made my comment about what those medicines are  
25 for. The records that support those, again, are in front of

1 the Court.

2           You'll note, Your Honor, at Page 59, that the staff  
3 believes that Mr. Ventura attempted suicide back in February  
4 of 2012. Now, Mr. Ventura, I think, denied it, and I would  
5 submit, Your Honor, that most people who are incarcerated who  
6 act in that way oftentimes will deny it because they recognize  
7 what's about to happen. What's about to happen is you'll be  
8 in segregation. You'll be denied any activities of any type,  
9 and some folks -- a lot of folks don't want to be segregated  
10 and denied what privileges they otherwise might have, but  
11 that -- on Page 59 of the documents you have, the doctor  
12 indicates that he sees a bipolar disorder also in Mr. Ventura.

13           The documents also indicate, Your Honor, that, at  
14 the time they were written, he had been in segregation for  
15 over four months. I think that time actually is much longer  
16 than that by the time his segregation ended.

17           Your Honor, I would argue that what you saw in this  
18 courtroom over the course of a couple of weeks during the  
19 trial and what we see in the pleadings to which Mr. Cunningham  
20 alluded actually makes the point. Mr. Ventura has some mental  
21 health issues that need to be addressed. One can argue that  
22 he's malingering, and one could argue that he's manipulating,  
23 and I understand why the Government says that, but I believe  
24 that one can also argue, just as effectively and I believe  
25 more accurately, supported by the documents you have in front

1 of you, that this man does have significant mental health  
2 issues.

3 He has told me, Your Honor -- it took him a long  
4 time to do that, because I think, as the Court knows, perhaps  
5 from time to time, Mr. Ventura and I have not seen eye to eye,  
6 and I respect that. That does not concern me or my  
7 representation of him in the least, but he's told me that he  
8 always feels paranoid. He feels that I'm out to get him, that  
9 Mr. Cunningham's out to get him, that you're out to get him,  
10 and that everybody's out to get him, because that's the way he  
11 feels his life has unfolded since his arrest back in 2010.

12 So what does he do? He files the same pleadings  
13 over and over and over again. Even though we've talked about  
14 the fact that I -- I said, "Mr. Ventura, I can only do so much  
15 for you. We have a system. We have a procedure. We have a  
16 protocol. We have Rules of Evidence," and he just could not  
17 accept it. He could not understand it, and I did not  
18 interpret that as his trying to, in some way, take issue and  
19 butt heads with me. I didn't see it that way at all.

20 He did it with all his lawyers. We've all had the  
21 same difficulty with him. It's because there is something in  
22 his mental makeup that needs to be addressed, which I hope can  
23 be addressed while he is incarcerated.

24 You'll see, Your Honor, at Page 158 of those  
25 documents, that he was assaulted by four inmates, and there

1 are reasons given for that assault. The doctor noticed that  
2 Mr. Ventura had scratches to his eye, his neck. His arm was  
3 cut, and he had also bruises and contusions to his back. He  
4 didn't make it up. It happened. He self-reported why it  
5 happened. Why it happened, we may take issue with. I don't  
6 take issue with it. I think it happened just the way he told  
7 the authorities as to why it happened, and so you can imagine,  
8 when this occurred in December of 2011, and he's been  
9 incarcerated, of course, for two more years, he's been looking  
10 over his shoulder for the last two years, rightfully so.

11 I don't blame that on the institution,  
12 Judge Quarles. I don't blame it on the facility in  
13 Washington, D.C. I don't blame it on the facility here in  
14 Baltimore. It's just the fact of what Mr. Ventura has had to  
15 go through during his incarceration.

16 He attempted, Your Honor -- and he has attempted --  
17 Mr. Cunningham referred to a letter of Mr. Mallory, and it  
18 appears as if Mr. Ventura had been a regular participant in a  
19 parenting type class. A parenting type treatment was what  
20 this particular gentleman was after in his attempt to help  
21 Mr. Ventura. I also tried to reach him, and, as  
22 Mr. Cunningham, I was unsuccessful in doing so.

23 The Court has seen that he participated in another  
24 program to attempt to assist himself with his educational  
25 pursuits.

1           **THE CLERK:** Excuse me, counsel. Counsel, excuse me  
2 one second.

3           **MR. RUTER:** Sure.

4           (Whereupon, a conference was held at the bench off  
5 the record.)

6           **THE CLERK:** Mr. Ruter, excuse me. Judge Gesner said  
7 that -- are you available tomorrow afternoon for your  
8 proceeding before her, which is a detention hearing? She says  
9 she can't wait today to do that, so if you could let me know  
10 now if you're available sometime tomorrow afternoon.

11          **MR. RUTER:** Am I before her tomorrow as well, you  
12 said?

13          **THE CLERK:** No. She wants to know if you are  
14 available tomorrow afternoon.

15          **MR. RUTER:** I think the answer is yes. I better be.

16          **THE CLERK:** What time is convenient for you?

17          **MR. RUTER:** Whatever she says.

18          **THE CLERK:** Okay. I'm sorry.

19          **MR. RUTER:** My apologies.

20          **THE COURT:** Yes, Mr. Ruter?

21          **MR. RUTER:** Your Honor, thank you.

22                 Your Honor, I was -- in light of the fact that he  
23 has made attempts to further his education -- he really has --  
24 I'd ask the Court, in your J and C, to indicate or recommend  
25 that he obtain his GED and that he be given as much

1 educational or vocational training as is possible at the  
2 facility he might be located at.

3 The Court also would have noted in the PSR, Your  
4 Honor, that he had admitted that he had used cocaine and  
5 alcohol regularly in the last several years. I would ask the  
6 Court to consider, if he qualifies, to be a participant in the  
7 RDAP program should he so qualify wherever it is that he is  
8 housed. I think that the record has been made in the PSR that  
9 he would benefit from that kind of a program.

10 I'd ask the Court also, of course, to credit him  
11 from time from November 15th until today's date.

12 **THE COURT:** Yes.

13 **MR. RUTER:** Your Honor, I do know I've asked in my  
14 pleadings to the Court to impose a sentence of 240 months.  
15 The Court, as I have explained to Mr. Ventura -- something  
16 that he takes great issue with, and I don't blame him. He  
17 thinks I'm wrong. That, as to Count 6, I believe His Honor  
18 must give him -- must give him 15 years. It's my  
19 understanding the Court must give him at least five years  
20 consecutive on Count 7. Even if you didn't want to, you have  
21 to do that because Congress says so. If my math is right,  
22 that would amount to 20 years, or 240 months.

23 All of us here, Judge Quarles, would agree that 240  
24 months is a long sentence. The question, of course, is  
25 whether or not that sentence is long enough in order to



1 satisfy the requirements of 18 U.S.C. § 3553(a), and I  
2 respectfully submit that it is.

3 This gentleman will be in his mid to late 50s when  
4 he is released from prison, should you give him a 240-month  
5 sentence. This is a person that will be immediately deported  
6 from this country at the termination of his jail term. I  
7 would think that anyone at any stage involved in sex  
8 trafficking with or without force, when they see that someone  
9 went to jail for 20 years as a result, I would think it would  
10 more than deter that person to disengage themselves from that  
11 kind of activity, and I think that the law is, Your Honor,  
12 that you're obligated to sentence him to a sentence which is  
13 not greater than necessary to accomplish the objective, as an  
14 example, of deterring others or deterring him and the rest of  
15 those matters which you, I know, have thought about and will  
16 consider before passing sentence.

17 We ask, therefore, for a total sentence, Your Honor,  
18 of 240 months with the conditions that we've also asked to  
19 place as recommendations in the Court's commitment record.

20 Mr. Ventura, do you want to stand up?

21 You have an absolute right to address Judge Quarles,  
22 to speak to him, if you would like. You are not obligated to  
23 do so, and he clearly would not hold that against you if you  
24 chose not to do so, but, if there is anything which you'd like  
25 to add to what you've heard here today, then this would be

1 your opportunity to do so.

2 Would you like to address the Court?

3 **THE DEFENDANT:** Yes. If I have the opportunity,  
4 yes.

5 (Whereupon, Ms. Goldstein enters the courtroom.)

6 **THE COURT:** Yes. Yes, sir.

7 **THE DEFENDANT:** Good afternoon, Your Honorable  
8 Judge.

9 **THE COURT:** Good afternoon.

10 **THE DEFENDANT:** I wanted to say something, and I  
11 want it to be clear to the prosecutors, to Mr. Cunningham,  
12 that at no point did I try to lie or manipulate anybody. I  
13 just tried to save my life, and I will continue to do so. I  
14 see that the Americans here in court already have determined  
15 what type -- what term of sentence they're going to give me,  
16 and I am not going to beg anything. I know that Hispanics are  
17 discriminated in Federal Court by people like Agent Kelly who  
18 is there.

19 And, as you could see, going back to the problem  
20 with Ms. Rebeca, I met that woman at the end of 2008, and all  
21 I did -- I tried to help her, to get her from the situation  
22 that she was in, or the problems that she was having with Omar  
23 and Flaco that Mr. Kelly knows, and, in order to bother me,  
24 they involved the girl. I am not trying to lie. I am not  
25 going to lie about anything. I know that, in the appeal, I am

1 going to win. I'm just -- I'm just trying to tell you, Your  
2 Honor, what the truth is and to tell that gentleman there who  
3 gave me the seven charges what is my version of things.

4 I am going to go to the point, Your Honorable Judge.  
5 I beg to bring this person to court. He or she is a Christian  
6 person. Josefina Reyes would have given good testimony.  
7 She's a good person because she goes to church, and she was  
8 taking Rebeca to church all the time. The day that Mr. Kelly  
9 and Mr. Hartlove went to see Rebeca -- Ms. Rebeca at home, why  
10 didn't they take pictures of her at that time if I had hit  
11 her?

12 Your Honor, I know you're a very intelligent person,  
13 and you're very professional, but you can see in the  
14 photograph it said 11/11/11, and I was arrested on  
15 November 15th, 2010, so how could it have been possible for me  
16 to have left jail to go and hit Rebeca?

17 So am I also threatening with a weapon Ms. Dueñas  
18 Franco and her husband with the delivery they have in  
19 Annapolis now together? So, when she told me this, that  
20 she -- she was arrested in Virginia and she told me this after  
21 I met her and she told me, "I'm desperate. Please take me out  
22 of this situation," and I told her to be patient because I was  
23 married with Jenny Ruiz, the mother of my two children, and so  
24 I told her to wait, to be patient.

25 I hadn't met her yet, but she told me that she was

1 arrested by the police in Annapolis and that Mr. Kelly had  
2 offered her help with her daughter that they had taken from  
3 her. She mentioned also a person by the name of Alex Choco  
4 that had paid rent or had gotten her husband, because she  
5 had -- she was helping her mother. She had to lie a lot in  
6 order to help her mother.

7 So the only thing I did, Your Honor, as another --  
8 as any citizen or U.S. citizen would do, was to recommend her,  
9 to suggest to her to go to the police if somebody was  
10 bothering her or threatening her, and I took her myself to the  
11 court and to the police, and that's the paper that Mr. Kelly  
12 found in my house. That's the evidence.

13 Your Honor, Mr. Cunningham knows that this girl has  
14 been a prostitute since she was 14 in her country because her  
15 mother had her -- made her prostitute because she wanted  
16 money, and I know that I have given her money -- Rebeca's  
17 mother money, and I have the number and the address and all of  
18 that, and I also told her that -- "How come you have to do  
19 this to give your mother money?" And, if I have denied  
20 knowing her to the agents, and also to my lawyer because I was  
21 upset with him, I told them, "Please don't -- I'm not  
22 interested in other people's lives. Don't ask me about this."

23 Rebeca was the only person -- I had to help her.  
24 Since I met her, I was the only one to help her. I started  
25 helping her -- I told her I would help her, and I started

1 taking care of her, but I told her, if we're going to be  
2 boyfriend and girlfriend, she had to stop being a prostitute,  
3 because I wouldn't get involved with a prostitute. I don't  
4 know if somebody here has this experience of having a  
5 girlfriend outside, but sometimes Ms. Rebeca would escape,  
6 leave, and I think it was because of the pressure that she had  
7 from her mother when she called and she demanded money.

8 Your Honor, I know that you already have the  
9 decision already made and that they already gave me seven  
10 charges, but, if they saw the picture, the picture said,  
11 "11/11/11," and I was arrested before that. I have never  
12 mistreated any woman. I was with Jenny for ten years, and  
13 I've never mistreated anybody, and I broke up with Jenny  
14 because of Rebeca, but I've been a man -- a decent man. I was  
15 never in the streets. I was -- I always took care of my home.

16 Your Honor, I came here, and I'm working  
17 construction. As Mr. Cunningham said, like all the Latin  
18 people that come here, we know very little English, we don't  
19 read or write English, but we do everything possible to try to  
20 progress and make a living, and I can tell you the name of my  
21 sister. My sister, Maria Antonia de Franco Ventura, works in  
22 the Congress serving coffee. I don't know how she manages  
23 with little English she has, but she serves coffee for the  
24 people in Congress. She's a supervisor.

25 And I have a brother. His name is Solomon Ventura

1 Solmayon (phon), who didn't go to school. We didn't go to  
2 school, but we have made efforts, and our minds have helped  
3 us, because we started from below. He works for New Again on  
4 Missouri Avenue in Washington, and also for a Chevrolet dealer  
5 in Silver Spring. And, if you talk to my brother, you'll see  
6 his English is worse than mine. I perhaps speak a little bit  
7 better than him.

8 As I told you, Your Honor, I am not here to argue,  
9 but -- about all this injustice and this discrimination, but I  
10 know how everything was based on lack of information --  
11 correct information.

12 In my case, I never went to school, not even in my  
13 country. We grew up in a very poor village. It's called  
14 La Union. Everybody knows that place, because it's very poor,  
15 in El Salvador. But we always try to do the right thing. I  
16 never stole anything. Mr. Hartlove made up this thing about  
17 the car when he arrested me with another Detective Joy from  
18 D.C. They only talked to me about death when they arrested  
19 me. And, when I was in front of a judge in Washington, D.C.  
20 and the Judge asked me what was missing from the company, he  
21 said some names. You can contact Judy Pike, who was the  
22 attorney who represented me in Washington. They dismissed my  
23 charges, thank goodness.

24 But all this trickery has come from Mr. Kelly and  
25 Mr. Hartlove. They tried to involve me in this so that this

1 would look very bad in front of a jury. The day of the  
2 arrest, when you are like under the influence -- what's it  
3 called, DUI? I saw the detectives in the casino in Dover  
4 town. I would like you to check the calls from 911, because  
5 it was from a call from 911 that they stopped me. They saw me  
6 with a Heineken beer bottle, and I only drank one beer,  
7 because I only was one point above the limit of what one  
8 person can drink.

9 That was an excuse to arrest me and to search my  
10 car. So the detective said, once they stopped me,  
11 "Mr. Ventura, can we search your vehicle?"

12 And I said, "Yes, sir."

13 "Are you drunk, sir?"

14 And I said, "Yes, I drank one beer."

15 And he said, "You can drive."

16 He took me to the police station. I don't know what  
17 that place is called. They searched my vehicle. There were  
18 no weapons, Your Honor. I may have a temperament that, when I  
19 see something that's unfair, my brain starts working, and I  
20 try to say, "This is not fair." But I'm not a person that's  
21 going to fight with fists with anybody.

22 So the only thing I did with Ms. Rebeca was to help  
23 her, and this gentleman -- the detective presented all this  
24 for the jurors to find me guilty. I don't blame the jurors,  
25 but, if you see the stickers on the evidence that

1 Mr. Cunningham presented, it said --

2 **INTERPRETER KIRCHGESSNER:** Interpreter requests  
3 clarification.

4 (Interpreter conferring with the Witness.)

5 **THE DEFENDANT:** -- "homicide." It said "homicide"  
6 on the stickers. I talked to my lawyer. I don't know if my  
7 lawyer explained that. I'm just explaining all the mistakes  
8 and injustices that were cried out against me in this trial.

9 I was stopped by Mr. Kelly and Mr. Cunningham on  
10 Route 50, and they searched my vehicle, and they found the  
11 title -- the title for a Nissan. They told me they could  
12 arrest me right away because they told me I couldn't drive  
13 because I was on probation, that I could only drive to work.

14 I hope Mr. Cunningham is not going to come out with  
15 a code and say that I'm manipulating the Judge, because I'm  
16 not manipulating. I'm just telling the truth. When Mr. Kelly  
17 stopped me, there was a passenger, and I told him I was going  
18 to help my wife who had a flat tire in Virginia Beach, and I  
19 had to go back home to get a credit card because I did not  
20 have cash.

21 So they -- all this following -- all this following  
22 and all this search, they did that without authorization.  
23 They did it because they did not have a search warrant for the  
24 GPS, and, when they stopped me and they searched the vehicle,  
25 the Nissan, Mr. Cunningham was behind the patrol car, and he



1 was very upset because of that.

2 Your Honorable Judge, I apologize for all this -- I  
3 know I can't do anything about this case now, but perhaps  
4 somebody else can do something about all this injustice. Your  
5 Honor -- the question is, Your Honor, if I was carrying  
6 weapons, and they were following me 24 hours a day, I was  
7 being followed and observed at home, at work, on the  
8 telephone, and they stopped me on the road, where are the  
9 weapons if I had weapons?

10 I'm not a criminal, but I -- Your Honor,  
11 Mr. Cunningham was following me like a dog following its prey  
12 24 hours a day. I was always -- I could always see him  
13 driving behind me, and Mr. Kelly. They thought I did not see  
14 them, but I saw them all the time, even when I went to a  
15 diner. Mr. Kelly was there. On another occasion,  
16 Mr. Hartlove followed me with a van, a Chrysler van, silver  
17 color with dark windows.

18 So, Your Honor, I saw Mr. Hartlove taking pictures  
19 with a camera when I was painting some lane lines at a Target.  
20 Why didn't he show those pictures to the jurors -- to the  
21 president of the jury who found me guilty. I'm going to  
22 refresh the memory of Mr. Hartlove. It was near Jennifer  
23 Road. I was getting lunch when I was working.

24 So, to conclude, why didn't they show the picture  
25 where I'm working, on another occasion at New Hampshire and

1 Powder Mill Road. I want you to have some consideration about  
2 all this injustice. The gentleman showed a text without date  
3 or day. Mr. Cunningham showed that text to the public.

4 November 15th, 2010, I was working at a parking --  
5 at a parking lot for a business, commercial building. I was  
6 laying 25 yards of asphalt. I was an operator. I don't have  
7 the need to sell prostitutes when I make 20 or \$30 per hour  
8 minimum. That same day, November of 2010, Mr. Kelly was in a  
9 black Honda. I was at a gas station. I could see him. I  
10 don't know if anybody has worked in asphalt, but I was filling  
11 the runner with water to lay the asphalt. Then a suspicious  
12 car followed me. I thought it was some enemy. He was kind of  
13 desperate looking for police. So, if I were a criminal or  
14 somebody hiding from the law, why would I go to a police  
15 station to say somebody's following me?

16 So they would know because they were following me.  
17 They were following me on New York Avenue and Fifth Street,  
18 N.W. I got to that place. I even work at that place,  
19 Magnolia Plumbing, installing some pipes, because I don't know  
20 if you know I'm also a plumber.

21 Okay. Your Honor, like he said, we come to the  
22 United States. I came to the United States the same way as  
23 Ms. Rebeca, and here I am. I made a living, but now they have  
24 ruined my life with all these charges -- these ridiculous  
25 charges without logic and this blackmail. I have never sold

1 prostitutes.

2 In order to finish my sermon, Your Honor, in the  
3 trial, there were many mistakes. We start with, number one,  
4 the speedy trial, the civil rights or constitutional rights --  
5 I don't know what you call them. When you get arrested and  
6 you are read your rights, I was not read my rights. Your  
7 Honor, you're a witness that you sat against me in court, and  
8 I asked for a lawyer. They continued recording me. The GPS  
9 is a very serious infraction as well.

10 The evidence -- the evidence was about death, not  
11 prostitution. That was another violation. Forced testimony  
12 of Ms. Rebeca. She said that -- she said that this and that  
13 was done to her, but, before she said I was a great person.  
14 They made a big mistake. They should have taken pictures of  
15 her the first day they arrested her when they went to her  
16 house. There is a witness that's willing to testify in the  
17 new trial. Her name is Josefina Reyes.

18 She's -- he's a friend of -- a friend of mine who  
19 grew up with me in El Salvador. I did not put Rebeca in that  
20 filthy place like Ms. Yasser says, no. So I want to tell  
21 Mr. President here, that Capitol Heights is very far from  
22 Langley Park. If I had hit her, she would have gone to the  
23 police.

24 When I was arrested, Rebeca was pregnant, Your  
25 Honor. And maybe Mr. Cunningham didn't say that because he

1 wants to make me look like a bad person. Only God knows my  
2 heart. I try to help people. She was pregnant when I got  
3 arrested. I had already paid two months' rent in advance, so  
4 I could -- so, if you check the risks I have taken, there is  
5 no benefit. In my case, I was paying rent and also  
6 mortgage -- the rent for Rebeca and also the mortgage for my  
7 house.

8 And I have -- I would like to tell you, Your Honor,  
9 that I -- my mother, who is old, is 70 years old, I have  
10 supported her since I'm a little boy. That's why I didn't go  
11 to school. Her name is Iaria Ventura, and I support her.

12 So, as you can see, Your Honor, it was very  
13 difficult for me. I was supporting two women, Rebeca and my  
14 mother, and I was making \$20 an hour. The company was S&J,  
15 was not doing very well. My company was not doing very well.  
16 There was an economic crisis, and so there was no forcing or  
17 anything, but there was some humanitarian help, and I do not  
18 blame Ms. Rebeca.

19 Ms. Rebeca already had a record for prostitution.  
20 She had been arrested many times before.

21 **THE COURT:** Mr. Ventura, it's been over an hour now,  
22 and I want to make sure that you had an opportunity to fully  
23 express yourself. Now, you -- you've spent most of the past  
24 hour talking about the facts of the case.

25 **THE DEFENDANT:** Thank you for the opportunity.

1           **THE COURT:** At this point, I need to hear, briefly,  
2 anything from you that you think I should know before I impose  
3 sentence. Please wrap up.

4           **THE DEFENDANT:** That depends on your professionalism  
5 and your heart, Your Honor. I can't force anybody, but I  
6 would like you to give me the opportunity to appeal this.

7           **THE COURT:** You will have that opportunity.

8           **THE DEFENDANT:** I will try and bring my witnesses.

9           **THE COURT:** You will have an opportunity. You will  
10 have an opportunity.

11           **THE DEFENDANT:** And I thank you very much for the  
12 opportunity. Whatever you decide, I know I have no rights.  
13 I'm a Hispanic here.

14           **(Conference at the bench.)**

15           **(It is the policy of this Court that every guilty**  
16           **plea and sentencing proceeding include a bench**  
17           **conference concerning whether the defendant is**  
18           **or is not cooperating.)**

19           **THE COURT:** Thank you. Please remain standing.

20           Mr. Ventura is 35 years old and has a 2010  
21 conviction for driving while impaired. Three other arrests  
22 did not lead to convictions. He is in Criminal History  
23 Category I.

24           On April 22, 2013, he was convicted of conspiracy  
25 related to interstate prostitution; interstate transportation

1 for prostitution; persuading, inducing, enticing, and coercing  
2 an individual to travel in interstate commerce for  
3 prostitution and illegal sexual activity; sex trafficking by  
4 force, fraud and coercion; and possession of firearms in  
5 furtherance of a crime of violence.

6 With the adjustments discussed earlier, his offense  
7 level is 42. Other than that sentence required to be imposed  
8 consecutively to others and those sentences with less than a  
9 360-month maximum, his guidelines are at 360 months to life.

10 Mr. Ventura, as indicated, was born in El Salvador,  
11 apparently from a broken home. He does not know his father  
12 and has no formal education. He entered the United States in  
13 1997, is here illegally. He has been married, although I  
14 understand that may be ending. He has three children. He  
15 has, as his attorney has alluded to, some past apparently  
16 significant cocaine use, and he has worked in construction.

17 The Defendant has suggested a number of reasons the  
18 sentence should be mitigated. Principal among these has been  
19 conditions of confinement, and I explain to him, as I do to  
20 all defendants here generally, that one of the difficulties I  
21 have in imposing sentence based on a reduction for conditions  
22 of confinement is that I have no principled basis for applying  
23 the reduction. Many of the problems he discussed were the  
24 problems that continue to plague the Chesapeake Detention  
25 Facility during this what I describe still as a shakedown

1 period and our efforts to provide a local detention facility.

2 A brief review of the medical records indicates  
3 that, with respect to the administrative segregation he's  
4 talked about, this appears to be largely self-inflicted,  
5 brought on by, among other things, the necessity to maintain a  
6 suicide watch on the Defendant, and such other behavior of the  
7 Defendant, such as an incident in which he apparently set his  
8 cell on fire. I also note that the Defendant has refused  
9 medical care when it has been offered.

10 Most disturbing in this case has been the  
11 Defendant's willingness to threaten and use violence in  
12 furtherance of this venture, recalling specifically the  
13 testimony of Sandra Flores about the gasoline poured on the  
14 door and the phone threats to do away with her and her family  
15 after she sheltered Ms. Rebeca; the testimony of Maximilliano  
16 Zelaya Repalo, who saw Mr. Ventura, who he knew as Chalo, with  
17 a gun in the car, in a brothel, and several places; the  
18 testimony of Mr. Carlos Campos, who saw Mr. Ventura, who knew  
19 him as Pancho, with a shoebox containing a 9mm pistol; the  
20 testimony of Mr. Carlos Ascencio, who saw Mr. Ventura with a  
21 9mm pistol as well as a .38-calibre revolver; and the  
22 testimony of Ferman Martinez Hernandez, who placed Mr. Ventura  
23 in possession of a shotgun.

24 Given the Defendant's high-level involvement in this  
25 tawdry enterprise and his willingness to use violence in an

1 effort to monopolize prostitution in Annapolis, I have  
2 concluded that sentences at the bottom of the advisory  
3 sentencing guidelines are sufficient in this case but not  
4 greater than necessary to reflect the seriousness of these  
5 offenses, provide just punishment and adequate deterrence,  
6 promote respect for the law, and protect the public from  
7 further crimes of the Defendant.

8 Accordingly, I impose the following terms of  
9 imprisonment: On Count 1, I impose a term of imprisonment of  
10 60, 6-0, months; on Counts 2, 4, and 5, concurrent 120-month  
11 terms; on Count 3, a concurrent 240-month term; on Count 6 and  
12 7, I impose concurrent 360-month terms. I'm sorry. On  
13 Count 6, I impose a concurrent 360-month term, all of those  
14 sentences on Counts 1 through 6 to be run concurrently. As to  
15 Count 7, I impose a consecutive 60, 6-0, month term. That  
16 sentence will be served consecutively to sentences imposed on  
17 Counts 1, 2, 3, 4, 5, and 6, for a total sentence of 420  
18 months.

19 I impose the following terms of supervised release  
20 on those counts, which I believe statutorily require a term of  
21 supervised release. On Counts 2 through 6, I impose  
22 concurrent five-year terms, with the exception of Count 3 --  
23 on each of the counts. On Counts 2, 3, 4, and 5, there are  
24 five-year terms, with the following special conditions: Drug  
25 and alcohol screening and treatment, vocational and



1 educational services as prescribed by the probation officer,  
2 an effort to obtain the GED if that is not accomplished in the  
3 Bureau of Prisons, and that the Defendant comply with and  
4 follow all lawful orders entered in his Immigration matters.

5 I waive the imposition of fine, and I impose, as I  
6 must, on each of the seven counts of conviction, a \$100  
7 special assessment, for a total special assessment of \$700.

8 Mr. Ventura, do you understand the sentence?

9 **THE DEFENDANT:** As I said before, Your Honor,  
10 whatever you decide.

11 **THE COURT:** Thank you. You have 14 days from  
12 today's date to file an appeal. If you cannot afford to pay a  
13 filing fee, you can appeal without a fee.

14 Madam Clerk, the recommendation for place of  
15 incarceration will be Butner FCI with a request that mental  
16 health, GED, and vocational/educational services be provided.  
17 I also recommend, for what it's worth, the RDAP program.

18 Yes?

19 **MR. CUNNINGHAM:** Yes, Your Honor. In anticipation  
20 of appellate litigation, would Your Honor state that,  
21 independent of the guideline calculation, you have concluded  
22 that the sentence you imposed was that which was necessary but  
23 not greater than appropriate in this case.

24 **THE COURT:** This is one of those cases in which I  
25 can say that, in fact, Mr. Cunningham.

1                   **MR. CUNNINGHAM:** Thank you.

2                   **THE COURT:** Anything further from the Government?

3                   **MR. CUNNINGHAM:** No, Your Honor.

4                   **THE COURT:** From the Defense?

5                   **MR. RUTER:** No, Your Honor.

6                   **THE COURT:** Thank you. Good day, Mr. Ventura.

7                   Thank you, Ms. Kirchgessner and Ms. Goldstein.

8                   **THE DEFENDANT:** Excuse me. Excuse me.

9                   **THE COURT:** Yes, sir?

10                  **THE DEFENDANT:** Your Honor, how am I about to appeal  
11 if I don't have any documents or any transcripts or anything  
12 in front of me?

13                  **THE COURT:** You will have an attorney appointed to  
14 represent you on appeal. That attorney will have full access  
15 to all of the materials in this case, and he will be given  
16 every assistance to ensure that your rights on appeal are  
17 protected.

18                  **THE DEFENDANT:** Who is going to be my attorney?

19                  **THE COURT:** I don't know. I don't make that  
20 decision.

21                  Good day.

22                  **THE CLERK:** All rise. This Honorable Court stands  
23 in recess.

24                  (Proceedings adjourned.)

25

1 I, Martin J. Giordano, Registered Merit Reporter and Certified  
2 Realtime Reporter, certify that the foregoing is a correct  
3 transcript from the record of proceedings in the  
4 above-entitled matter.

5  
6 \_\_\_\_\_  
7 Martin J. Giordano, RMR, CRR

\_\_\_\_\_ Date

\$	4	
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